

Senate File 390

S-3124

1 Amend Senate File 390 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. Section 8B.1, subsections 5, 13, and 14, Code
5 2021, are amended to read as follows:

6 5. "*Facilitate*" means a communication service provider's
7 ability to provide broadband service at or above the download
8 and upload speeds specified in the definition of targeted
9 service area in this section ~~or section 8B.11, subsection~~
10 ~~5, paragraph "a", if applicable,~~ to a home, farm, school,
11 or business within a commercially reasonable time and at a
12 commercially reasonable price upon request by a consumer.

13 13. "*Targeted service area*" means any of the following:

14 a. A United States census bureau census block located in
15 this state, including any crop operation located within the
16 census block, or other geographic unit the office sets by
17 rule, within which no communications service provider offers
18 or facilitates broadband service at or above the tier 1, tier
19 2, or tier 3 download and upload speeds ~~identified by the~~
20 ~~federal communications commission pursuant to section 706 of~~
21 ~~the federal Telecommunications Act of 1996, as amended.~~ As
22 used in this subsection:

23 (1) "Tier 1" means a maximum download speed of less than
24 twenty-five megabits per second and a maximum upload speed of
25 less than three megabits per second.

26 (2) "Tier 2" means a minimum download speed of greater than
27 or equal to twenty-five megabits per second but less than fifty
28 megabits per second.

29 (3) "Tier 3" means a minimum download speed of greater than
30 or equal to fifty megabits per second but less than eighty
31 megabits per second.

32 b. Any geographic area, as the office sets by rule, that
33 is materially underserved by broadband service such that
34 ~~the download and upload speeds identified by the federal~~
35 ~~communications commission pursuant to section 706 of the~~

1 ~~federal Telecommunications Act of 1996, as amended, of the~~
2 ~~broadband service in the geographic area tier 1, tier 2,~~
3 ~~and tier 3 download and upload speeds~~ are not meaningfully
4 available. The office's power to determine the geographic
5 area by rule under this paragraph includes the power to define
6 and interpret standards as to whether a geographic area is
7 materially underserved and broadband service is meaningfully
8 available.

9 14. "*Underserved area*" means any portion of a targeted
10 service area within which no communications service provider
11 facilitates broadband service meeting the tier 1 download and
12 upload speeds specified in the definition of targeted service
13 area in [this section](#).

14 Sec. 2. Section 8B.10, subsection 1, Code 2021, is amended
15 to read as follows:

16 1. The determination of whether a communications service
17 provider facilitates broadband service meeting the tier
18 1, tier 2, or tier 3 download and upload speeds specified
19 in the definition of targeted service area in [section 8B.1](#)
20 shall be determined or ascertained by reference to broadband
21 availability maps or data sources that are identified by
22 the office by rule. The office shall periodically make
23 renewed determinations of whether a communications service
24 provider facilitates broadband service at or above the tier
25 1, tier 2, or tier 3 download and upload speeds specified
26 in the definition of targeted service area in [section 8B.1](#),
27 which shall, to the extent updated maps and data sources are
28 available at the time, include making such determinations prior
29 to each round of grant applications solicited by the office
30 pursuant to [section 8B.11](#). The office is not required to make
31 renewed determinations of whether a communications service
32 provider facilitates broadband service at or above the tier
33 1, tier 2, or tier 3 download and upload speeds specified in
34 the definition of targeted service area in section 8B.1 more
35 frequently than once in any calendar year.

1 Sec. 3. Section 8B.11, Code 2021, is amended to read as
2 follows:

3 **8B.11 Empower rural Iowa — broadband grants — fund.**

4 1. The office shall administer a broadband grant program
5 designed to reduce or eliminate unserved and underserved
6 areas in the state, leveraging federal funds and public and
7 private partnerships where possible, by awarding grants to
8 communications service providers that reduce or eliminate
9 targeted service areas by installing broadband infrastructure
10 that facilitates broadband service ~~in targeted service areas at~~
11 ~~or above the download and upload speeds specified in subsection~~
12 ~~5, in accordance with this section in accordance with the~~
13 following:

14 a. The broadband infrastructure facilitates broadband
15 service that provides a minimum download speed of one hundred
16 megabits per second and a minimum upload speed of one hundred
17 megabits per second in a targeted service area within which no
18 communications service provider offers or facilitates broadband
19 service that provides download and upload speeds less than or
20 equal to the tier 1 download and upload speeds specified in the
21 definition of targeted service area in section 8B.1.

22 b. The broadband infrastructure facilitates broadband
23 service that provides a minimum download speed of one hundred
24 megabits per second and a minimum upload speed of one hundred
25 megabits per second in a targeted service area within which no
26 communications service provider offers or facilitates broadband
27 service that provides any of the following:

28 (1) Download speeds less than or equal to the tier 2
29 download speed specified in the definition of targeted service
30 area in section 8B.1.

31 (2) Download speeds less than or equal to the tier 3
32 download speed specified in the definition of targeted service
33 area in section 8B.1.

34 2. *a.* An empower rural Iowa broadband grant fund is
35 established in the state treasury under the authority of the

1 office. The fund shall consist of moneys available to and
2 obtained or accepted by the office. Moneys in the fund are
3 appropriated to the office to be used for the grant program,
4 including for broadband mapping and the administration and
5 operation of the grant program, and for the fiberoptic network
6 conduit installation program established in section 8B.25.

7 *b.* The office shall use moneys in the fund to provide
8 grants to communications service providers pursuant to this
9 section and to lead and coordinate the fiberoptic network
10 conduit installation program pursuant to section 8B.25. The
11 office may use not more than ~~one~~ two and one-half percent of
12 the moneys in the fund at the beginning of the fiscal year to
13 pay the costs and expenses associated with the administration
14 and operation of the grant program and the fiberoptic network
15 conduit installation program. The office shall use moneys in
16 the fund to leverage available federal moneys if possible.

17 *c.* Notwithstanding [section 8.33](#), moneys in the fund
18 that remain unencumbered or unobligated at the close of the
19 fiscal year shall not revert but shall remain available for
20 expenditure for the purposes designated until three years
21 following the last day of the fiscal year in which the funds
22 were originally appropriated.

23 *d.* Notwithstanding paragraph “c” or any provision to the
24 contrary, moneys in the fund that have been awarded but not
25 paid to a communications service provider shall not revert
26 but shall remain available to the office for purposes of
27 administering the award in a manner consistent with the terms
28 and conditions of any corresponding contract or grant agreement
29 governing the administration of the award.

30 3. Communications service providers may apply to the office
31 for a grant pursuant to [this section](#) for the installation of
32 broadband infrastructure that facilitates broadband service
33 in targeted service areas ~~at or above the download and upload~~
34 ~~speeds specified in [subsection 5](#).~~ The office shall include
35 ~~representatives from schools, communities, agriculture,~~

1 ~~industry, and other areas as appropriate to review and~~
2 ~~recommend grant awards. The office shall conduct an open~~
3 ~~application review process that includes the opportunity~~
4 ~~for the public to submit factual information as part of a~~
5 ~~validation process to address claims that a targeted service~~
6 ~~area is currently served with broadband service at or above the~~
7 ~~download and upload speeds specified in subsection 5. Upon~~
8 ~~completion of the validation process, the office may modify~~
9 ~~a proposed targeted service area to account for information~~
10 ~~received during the validation process. The office shall make~~
11 ~~available a public internet site identifying all publicly~~
12 ~~available information contained in the applications, the~~
13 ~~members of the review committee, a summary of the review~~
14 ~~committee's recommended results, and any results of performance~~
15 ~~testing conducted after the project is completed. The office~~
16 shall devote one full-time equivalent position to evaluate
17 applications submitted under this section and provide technical
18 assistance to communications service providers in completing
19 applications for federal funds, or any other funds from any
20 public or private sources, related to improving broadband
21 infrastructure.

22 4. a. The office shall award grants on a competitive
23 basis for the installation of broadband infrastructure that
24 facilitates broadband service as provided in subsection 3 in
25 ~~targeted service areas at or above the download and upload~~
26 ~~speeds specified in subsection 5,~~ after considering the
27 following:

28 (1) The relative need for broadband infrastructure in the
29 area and the existing broadband service speeds, including
30 whether the project serves a rural area or areas.

31 (2) The applicant's total proposed budget for the project,
32 including all of the following:

33 (a) The amount or percentage of local or federal matching
34 funds, if any, and any funding obligations shared between
35 public and private entities.

1 (b) The percentage of funding provided directly from the
2 applicant, including whether the applicant requested from the
3 office an amount less than the maximum amount the office could
4 award pursuant to subsection 5 and, if so, the percentage of
5 the project cost that the applicant is requesting.

6 (3) The relative download and upload speeds of proposed
7 projects for all applicants.

8 (4) The specific product attributes resulting from the
9 proposed project, including technologies that provide higher
10 qualities of service, such as service levels, latency, and
11 other service attributes as determined by the office.

12 (5) The percentage of the homes, farms, schools, and
13 businesses in the targeted service area that will be provided
14 access to broadband service.

15 ~~(6) The geographic diversity of the project areas of all the~~
16 ~~applicants.~~

17 ~~(7) The economic impact of the project to the area.~~

18 (6) The proportion of proposed projects that will result
19 in the installation of broadband infrastructure in a targeted
20 service area within which the only broadband service available
21 provides the tier 1 download and upload speeds specified in the
22 definition of targeted service area in section 8B.1.

23 ~~(8)~~ (7) Other factors the office deems relevant.

24 b. In considering the factors listed in paragraph "a"
25 for awarding grants pursuant to this section, the office
26 shall afford the greatest weight to the factors described in
27 paragraph "a", subparagraphs (1) through (3), and subparagraph
28 (6).

29 ~~c. Except as otherwise provided in this section, the office~~
30 ~~shall not evaluate applications based on the office's knowledge~~
31 ~~of the applicant except for information obtained by the office~~
32 ~~during the application process or period for public comment.~~

33 5. The office shall not award a grant pursuant to this
34 section that exceeds thirty-five percent of the communications
35 service provider's project cost. The total amount of the

1 grants the office awards from the empower rural Iowa broadband
2 grant fund pursuant to this section shall ~~be as follows~~ not
3 exceed any of the following amounts:

4 a. For Seventy-five percent of a communications service
5 provider's project costs for projects that will result in the
6 installation of broadband infrastructure that will facilitate
7 broadband service providing a minimum download speed less than
8 one hundred megabits per second but greater than or equal to
9 the download speed specified in the definition of targeted
10 service area in section 8B.1, and a minimum upload speed less
11 than twenty megabits per second but greater than or equal
12 to the upload speed specified in the definition of targeted
13 service area in section 8B.1, the total amount of the grants
14 the office awards shall not exceed fifty percent of the moneys
15 in the fund at the beginning of the fiscal year. However, if
16 the amount requested for projects that facilitate broadband
17 service at the speeds described in paragraph "b" for the fiscal
18 year is less than the amount reserved for projects under
19 paragraph "b", the office may award the difference to projects
20 under this paragraph for the same fiscal year in a targeted
21 service area within which no communications service provider
22 offers or facilitates broadband service that provides download
23 and upload speeds less than or equal to the tier 1 download and
24 upload speeds specified in the definition of targeted service
25 area in section 8B.1.

26 b. For Fifty percent of a communications service provider's
27 project costs for projects that will result in the installation
28 of broadband infrastructure that will facilitate broadband
29 service providing a minimum download speed of one hundred
30 megabits per second and a minimum upload speed of twenty
31 megabits per second, the total amount of the grants the office
32 awards shall not exceed fifty percent of the moneys in the fund
33 at the beginning of the fiscal year. However, if the amount
34 requested for projects that facilitate broadband service at
35 the speeds described in paragraph "a" for the fiscal year is

1 ~~less than the amount reserved for projects under paragraph~~
2 ~~"a", the office may award the difference to projects under~~
3 ~~this paragraph for the same fiscal year in a targeted service~~
4 ~~area within which no communications service provider offers or~~
5 ~~facilitates broadband service that provides download and upload~~
6 ~~speeds less than or equal to the tier 2 download and upload~~
7 ~~speeds specified in the definition of targeted service area in~~
8 ~~section 8B.1.~~

9 c. Thirty-five percent of a communications service
10 provider's project costs for projects that will result in the
11 installation of broadband infrastructure in a targeted service
12 area within which no communications service provider offers or
13 facilitates broadband service that provides download speeds
14 less than or equal to the tier 3 download speed specified in
15 the definition of targeted service area in section 8B.1.

16 6. Notwithstanding subsections 3 and 5, communications
17 service providers may apply to the office for a grant
18 pursuant to this section for the installation of broadband
19 infrastructure that facilitates broadband service providing a
20 minimum download speed of one hundred megabits per second and a
21 minimum upload speed of twenty megabits per second in targeted
22 service areas pursuant to this subsection. The office shall
23 make available a public internet site identifying all publicly
24 available information contained in the applications and any
25 results of performance testing conducted after the project is
26 completed.

27 a. The office shall award grants under this subsection on
28 a competitive basis after considering the factors provided in
29 subsection 4 and affording weight to the factors pursuant to
30 subsection 4, paragraph "b".

31 b. The total amount of the grants the office shall award
32 pursuant to this subsection shall not exceed fifty percent
33 of a communications service provider's project costs for
34 projects that will result in the installation of broadband
35 infrastructure in a targeted service area within which no

1 communications service provider offers or facilitates broadband
2 service that provides download and upload speeds less than or
3 equal to the tier 1 download and upload speeds specified in the
4 definition of targeted service area in section 8B.1.

5 7. Notwithstanding subsections 5 and 6, at least twenty
6 percent of the total amount of the grants the office awards
7 from the empower rural Iowa broadband grant fund pursuant to
8 this section shall be allocated to projects that will result
9 in the installation of broadband infrastructure in difficult
10 to serve targeted service areas within which no communications
11 service provider offers or facilitates broadband service that
12 provides download and upload speeds less than or equal to the
13 tier 1 download and upload speeds specified in the definition
14 of targeted service area in section 8B.1. For purposes of this
15 subsection, a targeted service area is difficult to serve if
16 the soil conditions, topography, or other local conditions make
17 the installation of broadband infrastructure in the targeted
18 service area more time-consuming or labor-intensive compared to
19 other areas of the state.

20 ~~6. 8.~~ The office shall provide public notice regarding the
21 application process and receipt of funding.

22 ~~7. The office shall not award a grant pursuant to this~~
23 ~~section on or after July 1, 2025.~~

24 ~~8. 9.~~ The office may adopt rules pursuant to [chapter 17A](#)
25 interpreting [this chapter](#) or necessary for administering this
26 chapter, including but not limited to rules relating to the
27 broadband grant program process, management, and measurements
28 as deemed necessary by the office.

29 ~~9. 10.~~ The office shall adopt rules establishing procedures
30 to allow aggrieved applicants an opportunity to challenge the
31 office's award of grants under [this section](#).

32 Sec. 4. EMERGENCY RULES. The office of the chief
33 information officer may adopt emergency rules under section
34 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph
35 "b", to implement the provisions of this Act and the rules

1 shall be effective immediately upon filing unless a later
2 date is specified in the rules, unless the effective date of
3 the rules is delayed or the applicability of the rules is
4 suspended by the administrative rules review committee. Any
5 rules adopted in accordance with this section shall not take
6 effect before the rules are reviewed by the administrative
7 rules review committee. The delay authority provided to
8 the administrative rules review committee under section
9 17A.4, subsection 7, and section 17A.8, subsection 9,
10 shall be applicable to a delay imposed under this section,
11 notwithstanding a provision in those sections making them
12 inapplicable to section 17A.5, subsection 2, paragraph "b".
13 Any rules adopted in accordance with the provisions of this
14 section shall also be published as a notice of intended action
15 as provided in section 17A.4.

16 Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate
17 importance, takes effect upon enactment.

18 Sec. 6. APPLICABILITY. This Act applies to applications
19 for grants submitted pursuant to section 8B.11 on or after the
20 effective date of this Act.>

CARRIE KOELKER

JASON SCHULTZ